

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ERNEST BYNUM,

Claimant,

vs.

KRAFT HEINZ COMPANY,

Employer,

and

INDEMNITY INSURANCE COMPANY
OF N.A.,Insurance Carrier,
Defendants.

File No. 20005112.01

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.30, 1402.40;
1402.50; 1801; 1802; 1803;
2206; 2209; 2501; 2502; 2907;
5-9998

Defendants Kraft Heinz Company, employer, and its insurer, Indemnity Insurance Company of N.A., appeal from an arbitration decision filed on October 4, 2021. Claimant Ernest Bynum responds to the appeal. The case was heard on July 1, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on August 13, 2021.

In the arbitration decision, the deputy commissioner found claimant was a credible witness. The deputy commissioner found claimant carried his burden of proof to establish he sustained an injury arising out of and in the course of his employment with defendant-employer on February 5, 2019. The deputy commissioner found defendants failed to prove their Iowa Code section 85.23 notice defense. The deputy commissioner found claimant is entitled to receive temporary total disability benefits for the work injury from February 28, 2019, through April 14, 2019, and the deputy commissioner also found claimant is entitled to a running award of healing period benefits from May 13, 2019, through the present and continuing until such time as those benefits cease pursuant to Iowa Code section 85.34. The deputy commissioner found that because claimant did not submit medical bills at hearing for past medical treatment for the work injury, claimant is not entitled to recover the cost of that treatment from defendants. The deputy commissioner found defendants are liable for all future medical treatment related to the work injury. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to receive reimbursement from defendants for the cost of the independent medical evaluation (IME) of claimant performed by Richard Kreiter, M.D.

Defendants assert on appeal that the deputy commissioner erred in finding claimant was a credible witness. Defendants assert the deputy commissioner erred in

finding claimant proved he sustained a work-related injury. Defendants assert the deputy commissioner erred in finding defendants failed to prove their section 85.23 notice defense. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive temporary disability benefits from February 28, 2019, through April 14, 2019. Defendants assert the deputy commissioner erred in finding claimant is entitled to a running award of healing period benefits. Defendants assert the deputy commissioner erred in finding defendants are liable for future medical treatment.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as a part of this appeal decision.

I have performed a de novo review of the evidentiary record and the detailed arguments of the parties, and I reach the same analysis, findings, and conclusions as those reached by the deputy commissioner.

Pursuant to Iowa Code sections 17A.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on October 4, 2021, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all the issues raised in the arbitration proceeding. I affirm the deputy commissioner's findings of fact and conclusions of law pertaining to those issues.

I affirm the deputy commissioner's finding that claimant proved he sustained a work-related injury on February 5, 2019. I affirm the deputy commissioner's finding that defendants failed to prove their section 85.23 notice defense. I affirm the deputy commissioner's finding that claimant is entitled to receive temporary disability benefits for the work injury from February 28, 2019, through April 14, 2019. I affirm the deputy commissioner's finding that claimant is entitled to a running award of healing period benefits beginning May 13, 2019. I affirm the deputy commissioner's finding that because claimant did not submit medical bills at the hearing for past medical treatment for the work injury, claimant is not entitled to recover the cost of that treatment from defendants. I affirm the deputy commissioner's finding that defendants are liable for future medical treatment related to the work injury. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to receive reimbursement from defendants for the cost of Dr. Kreiter's IME.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. The deputy commissioner found claimant to be a credible witness. Defendants assert claimant was not credible. I find the deputy commissioner correctly assessed claimant's credibility. While I performed a de novo review on appeal, I give considerable deference to findings of fact which are impacted by the credibility findings, expressly or

impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration hearing. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's findings regarding claimant's credibility.

I affirm the deputy commissioner's findings, conclusions and analysis regarding the above-stated issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on October 4, 2021, is affirmed in its entirety.

Defendants shall pay Claimant temporary benefits from February 28, 2019, through April 14, 2019, at the stipulated weekly rate of four hundred fifty-three and 41/100 dollars (\$453.41).

Defendants shall pay Claimant a running award of healing period benefits commencing on May 13, 2019, at the stipulated weekly rate of four hundred fifty-three and 41/100 dollars (\$453.41), until such time as benefits shall cease pursuant to Iowa Code section 85.34.

Defendants shall receive credit for all benefits paid to date, including short-term disability payments, as stipulated by the parties.

Defendants shall pay accrued weekly benefits in a lump sum together with interest at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent.

Defendants are liable for all future medical treatment related to the work injury.

Defendants shall reimburse claimant in the amount of one thousand and 00/100 dollars (\$1,000.00) for the cost of Dr. Kreiter's IME.

Pursuant to rule 876 IAC 4.33, defendants shall pay the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed on this 6th day of April, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Adnan Mahmutagic (via WCES)

Peter Thill (via WCES)